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August 7, 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket No. 97-138
Comments of The Dalton Group, Inc.

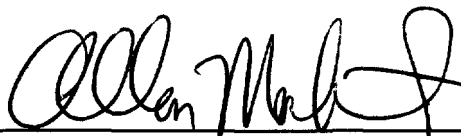
Dear Mr. Caton:

On behalf of The Dalton Group, Inc., there is transmitted herewith an original and four (4) copies of its "Comments" regarding the Commission's Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations.

Please direct any inquiries concerning this submission to the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By: 
Allan G. Moskowitz

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WASHINGTON, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Review of the Commission's Rules |) | MM Docket No. 97-138 |
| Regarding the Main Studio and |) | |
| Local Public Inspection Files of |) | |
| Broadcast Television and Radio Stations |) | |

liberalized to maintain the potential for the community of license's accessibility to the licensee and, therefore, the potential for interaction, while also eliminating unnecessary operational burdens from broadcasters and allowing them to achieve economies of scale.

4. As acknowledged by the NPRM, the current rules impose substantial burdens on multi-station licensees who could operate more efficiently from one centrally located studio and office. For example, Shelby, North Carolina, to which WWMG(FM) is licensed, is approximately 40 miles west of Charlotte, North Carolina, and Salisbury, North Carolina, to which WEND(FM) is licensed, is approximately 40 miles northeast of Charlotte. However, both stations are considered as being located in the "Charlotte radio market" and, indeed both serve the larger community of Charlotte and its suburbs, i.e., its Metropolitan Statistical Area. In order to serve both stations' entire listening area, we have set up our primary business office and main production studios for the two stations in Charlotte. While WWMG(FM)'s city grade contour includes the offices at Charlotte, that of WEND(FM) presently does not. Consequently, we are forced to maintain two separate "main studios," one of which is minimally staffed and equipped. Moreover, because the two stations are considered Charlotte stations, none of our listeners contact or visit the WEND(FM) official main studio, but rather only communicate with us at our Charlotte office. Consequently, we are forced by geographic and market forces to have one studio in Charlotte and by the Commission to have one more outside of Charlotte.

5. In order to moderate the clear inequities inherent in the Commission's existing main studio location rules, Dalton recommends that the Commission adopt a rule that extends the permitted location of a main broadcast station for AM and FM radio stations to any location within either (1) a radius of 40 miles from the city of license; or (2) anywhere within the

overlapping city grade contours of the licensee's commonly-owned or controlled stations in that market.

6. These modifications would substantially liberalize the Commission's current policy and would still provide reasonable access to the station's community of license.

Licensees of several stations within a market, such as Dalton, which presently must maintain several "main studios" in order to comply with the Commission's rules would be able to achieve the economies of scale contemplated by the liberalization of the duopoly rules by concentrating their business and production at one studio for all of the stations. Furthermore, the Commission's historical nexus of the station's main studio to its community of license is an anachronism which today has very little meaning to a station's service area, i.e., that community of listeners within the reach of the station's signal who actually listen and use the station. Consequently, by allowing stations to locate within a broader geographic area the Commission would arguably be improving the accessibility of the studio to each station's listeners. Moreover, Dalton's proposal allows flexibility to multi-station owners in a given market area or to a stand alone Class A station licensed to a single community within that market. In order to allow easy communication between the community of license and the main studio, wherever it is to be located, Dalton believes the current rule requiring toll-free calling should be maintained.

7. We agree with the Commission that the final rule must be clearly and easily understood and applicable. Consequently, we also agree with the Commission that Apex's proposal to require the main studio to be "reasonably accessible to residents of the station's community of license" or "within 30 minutes normal driving time" is too vague. Similarly, the Commission's proposal to use a straight mileage standard alone would not always lift the

burdens on licensees of multiple stations in one market. We also agree that a proposal to retain the existing rule and entertain waivers should be rejected because it would create uncertainty, impose substantial burdens on both licensees and the Commission and is unnecessary.

8. Finally, the proposal to allow a main studio to be located within the principal community contour of any station licensed to a community of license is unfair to the small communities which have only one or two Class A stations assigned to them and would deprive these stations of the flexibility which would be enjoyed by stations of equal size but assigned to communities which have more stations. Furthermore, many single station communities are actually part of a larger market, i.e., Radio Station WINX(AM), Rockville, Maryland. Consequently, we do not believe the use of the concept of city grade contours alone, whether limited to those of an individual station, those of a commonly-owned group of stations, or the contours of every station in the community, is feasible by itself, but rather must be combined with an alternative mileage standard.

II. Location of Public Inspection File

9. Dalton strongly agrees with the Commission that the preferred and most rational location for a local public inspection file is at a broadcast station's main studio location. In fact, once the Commission determines what rule should apply to the location of a main studio, it should then require the files to be maintained at that main studio. The current rule requiring that the files be placed in the community of license has not made any sense since the date that the Commission liberalized its main studio rule to its current city grade contour requirement. Requiring the public file to be at a location other than the main studio requires the licensee to put the station's public file in the hands of others, i.e., a public library, a law office, local chamber of

commerce, etc., who are not by law required to ensure its completeness or integrity. Instead, licensees must maintain a constant vigil to ensure that their public file, usually kept at an inconvenient distance from the main studio or even the station's business office, is complete and accurate.

10. Furthermore, the Commission has never required, except when certain applications are filed that require a local public notice, the advertisement of the existence or location of a station's public file. Consequently, members of the public necessarily come to the station's main studio or main office if they wish to review the station's public file.

11. The main studio is obviously the most logical repository for the public file. It is the location listeners of the station will first think of if they wish to view the public file; the location is well advertised in directories and even by outdoor signage; and it is staffed by knowledgeable broadcasting professionals who can answer questions raised by the public and who are personally responsible for maintaining the licensee's records. In fact, no location other than the main studio makes any sense as the repository for a station's public file.

12. Dalton opposes the proposal of Salem Communications Corp. that the Commission require any licensee who elects to place its public file at its main studio outside its community of license to also accommodate the public by providing free transportation to the main studio, or delivering the public file to a location specified by the requestor, or providing specific documents by mail to the requestor. This, we believe, is far too burdensome to justify the perceived benefits. Salem's proposal creates a new level of regulations in disregard of a licensee's coverage. Not only is the proposal cumbersome, but it could also discourage broadcasters from locating their studio or public inspection files anywhere but within their

particular communities of license. Furthermore, the present rules provide a mechanism that allows the public full access to station records. Hence, Section 73.3526(f) of the Rules covers such matters as machine reproduction upon request, and the manner and time period in which such documents must be provided. Salem does not contend that the rule is failing the public, so there is no reasonable basis for change.

III. Public Inspection File Contents

13. Dalton agrees with all of the Commission's proposals with respect to public inspection file contents except with respect to the requirement that licensees no longer be responsible for maintaining the public file materials when the station's license has been assigned to a new owner.

14. While it is true that this requirement is sometimes onerous (and often impossible to comply with), in view of the quick succession of assignments of license and successive licensees that have occurred at many stations in the recent past, as a result of the relaxation of the duopoly rules, completely eliminating the responsibility of successor licensees to maintain the integrity of the files for any length of time would, we believe, encourage present licensees to fail to maintain the files in the knowledge or belief that the station's license would be assigned in the not too distant future. Consequently, to ensure that the public file has any future purpose, we believe that successor licensees should be required to be responsible for the contents of the public file for a two year period preceding the consummation of the assignment to them or alternatively back to the previously granted renewal, whichever is shorter.

15. Finally, Dalton rejects the Commission's proposal that electronic mail messages ("e-mail") ought to be considered as written comments required to be maintained in a station's

public inspection file. The original requirement that only "written comments and suggestions" be maintained as opposed to all varieties of comments, written or merely oral, clearly established "written" as a minimum acceptable standard that had to be met to warrant attention. The ease of duplication afforded by e-mail presents the reasonable probability that a limited number of correspondents could flood a station with "comments and suggestions" that might well be frivolous, irrelevant or harassing. At a time in which paper, pens, envelopes and stamps continue to be fully accessible to the population and computer access and use continues to be limited, it does not seem unreasonable to continue to require that a conventionally measurable standard of formal effort -- a comment committed to paper and delivered to the licensee -- be required of any listener who wishes to make comments or suggestions that the Commission will require the licensee to maintain in the station's public inspection files.

Respectfully submitted,

THE DALTON GROUP, INC.

By: 
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August 7, 1997

CERTIFICATE OF SERVICE

I, Diane E. Bateman, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 7th day of August, 1997, a copy of the foregoing "Comments" was hand-delivered to the following:

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